



MAGISTRATE JUDGE

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 AUSTIN C. O'BRYON,

14 Defendant.

) No. CR19-5083

) FINDINGS AND ORDER ACCEPTING
) DEFENDANT FOR DEFERRED
) PROSECUTION, APPROVING
) TREATMENT PLAN, AND
) DIRECTING DEFENDANT TO TAKE
) TREATMENT AS PRESCRIBED

15 THIS MATTER, coming on for hearing this 10th day of June, 2019 upon the
16 defendant's Petition for Deferred Prosecution; the defendant appearing in person and by
17 his attorney, Gregory Murphy, Assistant Federal Public Defender; the United States of
18 America being represented by Barbara Sievers, Assistant United States Attorney; the
19 Court, having examined and incorporated into the record Petitioner's Petition and
20 Statement in support of deferred prosecution, the evaluation and treatment report
21 prepared by Social Treatment Opportunities Program (STOP), and the files and records
22 herein, being fully advised in the premises, does now make and enter the following:

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1 **I. FINDINGS OF FACT**

2 A. On or about the 9th day of November, 2018, Petitioner was charged with
3 the offense/offenses charged in the Information. This offense occurred as a direct result
4 of alcoholism/chemical dependency problems;

5 B. Petitioner suffers from an alcohol/drug problem and is in need of
6 treatment;

7 C. The probability of similar misconduct in the future is great if the problem
8 is not treated;

9 D. Petitioner is amenable to treatment;

10 E. An effective rehabilitative treatment plan is available to Petitioner
11 through STOP, an approved treatment facility as designated by the laws of the State of
12 Washington, and Petitioner agrees to be liable for all costs of this treatment program;

13 F. That Petitioner agrees to comply with the terms and conditions of the
14 program offered by the treatment facility as set forth in the diagnostic evaluation from
15 STOP, attached to Statement of Petitioner filed herewith, and that Petitioner agrees to
16 be liable for all costs of this treatment program;

17 G. That Petitioner has knowingly and voluntarily stipulated to the
18 admissibility and sufficiency of the facts as contained in the written police report
19 attached to Statement of Petitioner filed herewith.

20 H. That Petitioner has acknowledged the admissibility of the stipulated facts
21 in any criminal hearing or trial on the underlying offense or offenses held subsequent to
22 revocation of this Order Granting Deferred Prosecution and that these reports will be
23 used to support a finding of guilt;

24 I. That Petitioner has acknowledged and waived the right to testify, the right
25 to a speedy trial, the right to call witness to testify, the right to present evidence in his
26 or her defense, and the right to a jury trial;

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2 From the foregoing FINDINGS OF FACT, the Court draws the following:

3 **II. CONCLUSIONS OF LAW**

4 A. That the above-entitled Court has jurisdiction over the subject matter and
5 Petitioner O'Bryon, in this case;

6 B. That Petitioner's Petition for Deferred Prosecution meets the requirements
7 of RCW 10.05 et seq.;

8 C. That the diagnostic evaluation and commitment to treatment meets the
9 requirements of RCW 10.05.150;

10 D. That Petitioner is eligible for deferred prosecution.

11 **III. ORDER**

12 Having made and entered the foregoing FINDINGS OF FACT and
13 CONCLUSIONS OF LAW, it is hereby

14 ORDERED that the defendant is accepted for deferred prosecution. The
15 prosecution of the above-entitled matter is hereby deferred for five (5) years pursuant to
16 RCW 10.05 et seq., upon the following terms and conditions:

17 A. Petitioner shall be on probation for the deferral period and follow the
18 rules and regulations of probation;

19 B. Petitioner shall enroll in and successfully complete the two-year treatment
20 program recommended by STOP according to the terms and conditions of that plan as
21 outlined in the diagnostic evaluation, a true copy of which is attached to the Petition
22 and incorporated herein by reference. Petitioner shall not change treatment agencies
23 without prior Probation approval;

24 C. The treatment facility, STOP, shall file with the United States Probation
25 Office status reports of Petitioner's compliance with treatment, monthly during the first
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1 year of the deferred prosecution period and every three (3) months during the second
2 year. The Court may increase the frequency of these reports at its discretion;

3 D. Petitioner shall notify U.S. Probation within 72 hours of any residence
4 change.

5 E. Petitioner shall abstain during the deferred prosecution period from any
6 and all consumption of alcoholic beverages and/or non-prescribed mind-altering drugs;

7 F. Petitioner shall not operate a motor vehicle on the public highways
8 without a valid operator's license and proof of liability insurance sufficient to comply
9 with the state laws on financial responsibility;

10 G. Petitioner shall be law abiding and shall not commit any alcohol/drug
11 related offenses or other criminal offenses during the period of deferral,

12 H. Petitioner shall notify U.S. Probation within 72 hours of being arrested,
13 questioned, or cited by Law Enforcement;

14 I. In the event that Petitioner fails or neglects to carry out and fulfill any
15 term or condition of his treatment plan or violates any provision of this Order or any
16 rule or regulation of his probation officer, upon receiving notice, the Court shall hold a
17 hearing to determine why Petitioner should not be removed from deferred prosecution
18 and prosecuted for the offense/offenses charged;

19 J. In the event the Court finds cause to revoke this deferred prosecution, the
20 stipulated police reports shall be admitted into evidence, and Petitioner shall have her
21 guilt or innocence determined by the Court;

22 K. That the statement of Petitioner for Deferred Prosecution shall remain
23 sealed, and all subsequent reports or documents relating to her treatment information
24 shall be sealed, to maintain confidentiality of Petitioner's treatment information;

25 L. That the Department of Licensing be notified of this Order accepting the
26 Petitioner for deferred prosecution;

1 M. Upon proof of Petitioner's successful completion of five years deferral
2 period in this Order, the Court shall dismiss the charges pending against Petitioner.

3 N. Additional conditions:
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7 DONE IN OPEN COURT this 10th day of June, 2019.
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10 Theresa L. Fricke
11 UNITED STATES MAGISTRATE JUDGE

12 Presented by:

13 s/ Gregory Murphy
14 Gregory Murphy
15 Attorney for Petitioner

16 I have received a copy of the foregoing Order of Deferred Prosecution. I have
17 read and understand its contents, and agree to abide by the terms and conditions set
18 forth herein.

19 Dated: 6-10-2019

20 Austin C. O'Bryon
21 Austin C. O'Bryon
22 Petitioner

23 I certify that a copy of this signed Order was mailed to the subject treatment
24 facility, on June 10, 2019. The United States Probation Office was also
25 furnished a copy of this Order.

26 Seamus P. White
Clerk, Deputy